

EXHIBIT S – Part 2

Complete Deposition of Dr. Stephen
Ansolabehere

1 A. I didn't know that.

2 Q. I think he would stipulate to that. Do
3 you know that there was another group of
4 Plaintiffs where the lead Plaintiff was the
5 North Carolina NAACP?

6 A. I don't know specifics on the case, no.

7 Q. Okay. Did you look at any of the
8 testimony from that case?

9 A. No.

10 Q. Let me get a little more specific. Did
11 you look at any of the trial testimony from
12 that case?

13 A. No.

14 Q. Did you look at any of the deposition
15 testimony from that case?

16 A. Did I look at any deposition testimony?
17 I don't recall.

18 Q. Okay. Do you know an expert witness and
19 professor named Ted Arrington?

20 A. I know the name, but I've never met him.

21 Q. Okay. And do you know whether he gave a
22 deposition in the Dixon case or not?

23 A. I don't know for sure.

24 Q. Okay. Do you know an expert witness
25 named David Peterson?

1 A. I know the name because people have
2 mentioned him -- Mr. Speas has mentioned him in
3 relationship to this case, and I've seen his
4 name from prior cases in North Carolina.

5 Q. Did you read any of the testimony that
6 he gave in the Dixon case?

7 A. No.

8 Q. All right. Did you read any of the
9 testimony that was given by the legislative
10 leaders in the Dixon case?

11 A. No.

12 Q. Did you read any of the affidavit
13 testimony or deposition testimony given by any
14 of the legislative staff in the Dixon case?

15 A. No.

16 Q. Did you read the opinion -- there's been
17 an opinion by a three-judge state court in that
18 case. Have you read that opinion?

19 A. I believe I did read that.

20 Q. Okay.

21 A. This is one of these points where I
22 think, did I read that? I taught four courses
23 this semester, so I'm little --

24 Q. That's all right. I forget who I had
25 lunch with last week, so you just do the best

1 you can.

2 Do you recall anything about that opinion?

3 A. Not in particular.

4 Q. Do you recall any findings or rulings by
5 the court in that case about whether race was
6 the predominant motive in the construction of
7 the 2011 Twelfth Congressional District?

8 A. I think I was told by -- no, I don't
9 remember reading it. I think I was told in a
10 conversation by my friend Nate Pursely who is
11 an election lawyer about that case, but I don't
12 remember reading it.

13 Q. Did you know that was a decision by a
14 three-judge trial court?

15 A. I didn't know the composition of the
16 court.

17 Q. Unh-hunh (yes). Did you know that they
18 made findings of fact after there was a trial
19 in the case?

20 A. After -- as part of the decision?

21 Q. Unh-hunh (yes).

22 A. Just from what was mentioned to me, yeah.

23 Q. Okay. But you don't recall reviewing
24 that?

25 A. I don't recall reviewing it.

1 Q. Okay. Did you look at -- you're aware,
2 I'm sure, Professor, that there's been a long
3 history of litigation associated with the First
4 and the Twelfth Congressional Districts in
5 North Carolina?

6 A. I'm aware of that.

7 Q. As a Professor of Government, you're, I'm
8 sure, aware of that?

9 A. Yes.

10 Q. Have you studied any -- for purposes of
11 this case, have you studied any of the prior
12 versions of the First or the Twelfth
13 Congressional Districts?

14 A. Not -- not before the 2001 and 2011
15 districts. I am familiar with cases such as
16 Shaw v. Reno and Thornburg versus Gingles.

17 Q. I understand.

18 A. Yeah, they are very important cases.

19 Q. But for purposes of this case, did you
20 go back and look at any of the prior versions
21 of the First or the Twelfth District starting
22 in 1991 up to 2001?

23 A. You know, I might have re-read Shaw v.
24 Reno. I was teaching a course on election law
25 this semester, and we taught Shaw v. Reno and

1 Thornburg versus Gingles in the context of
2 that. So, I've -- I've read them, but it was
3 not expressly for this purpose.

4 Q. Okay. Did you go back -- did you do a
5 VTD analysis on any of the prior plans?

6 A. No.

7 Q. Okay. I should have asked that earlier.
8 I'm sorry.

9 A. Okay.

10 Q. All right. Now, I want to go to page 4
11 of your report, and I want to get you to --
12 first of all, I think I want to talk with you
13 about compactness since that's the first thing
14 in your report.

15 A. Unh-hunh (yes).

16 Q. How do you define compactness?

17 A. Compactness is a description of how
18 spread out a district is relative to an ideal
19 district. And an ideal district is defined in
20 different ways, depending on geography, but the
21 most -- the way it's often defined is take the
22 most compact shape, which is a circle; and
23 consider the area or perimeter of this district
24 relative to area or perimeter of the most
25 compact shape. That would be one way to think

1 about it.

2 The Reock score is take the area of the
3 -- the smallest circle in which the district is
4 inscribed and put the district in, and measure
5 the area of the district itself and the area of
6 that smallest circle. So, that's one specific
7 definition of a measure of the compactness.

8 Q. Was that -- so, did you just describe one
9 definition of compactness or two?

10 A. One definition and one definition of a
11 measure.

12 Q. Okay.

13 A. I didn't know what you -- if you wanted
14 the concept or the measure.

15 Q. The Reock test is based upon the concept
16 you described?

17 A. Yes.

18 Q. Okay. Got that. Is there any sort of
19 legal definition for compactness that's been
20 adopted by a court?

21 A. The courts -- my understanding -- I'm
22 not a lawyer. My understanding of what the
23 courts have used was a bit of we know it when
24 we see it as a standard, and there's not a --
25 there's not a specific bright-line threshold

1 like, you know, maybe with majority/minority
2 districting, 50 percent is the number. I just
3 know specific bright-line for compactness.

4 Q. Okay. So, if I say to you there's no
5 judicially manageable standard for determining
6 when a district is legally compact, would you
7 agree with that?

8 A. That's a legal opinion.

9 Q. Okay.

10 A. I don't know if -- I don't know if the
11 standards that have evolved in existing cases
12 are -- I mean, it's up to the judges to decide
13 if it's manageable.

14 Q. Well, you've read the cases -- you're
15 read a lot of cases that --

16 A. Yeah. I mean, I think -- my reading of
17 Shaw, it was my understanding that they had a
18 sense that, you know, when it's -- you know,
19 that they would develop it or come up with it.

20 For me, compactness is not so much -- and
21 other geographic features of districts are not
22 so much a kind of bright-line test of this is
23 acceptable or this is not acceptable. It's
24 more of a red flag, and just says, okay,
25 something is going on here. This district is

1 really narrow, or this district swings around
2 back on top of itself.

3 And the compactness score gives you a
4 quantitative measure of how much this district
5 does it compared to other districts in, say, a
6 state or in the whole nation; how much it did
7 it compared to previous versions of the
8 district. It's just more of a red flag; and,
9 you know, we need to look now more closely at
10 this.

11 Q. Okay. And, again, I'll -- I'll get off
12 of this after I ask this question. Are you
13 aware of any legal standards that can define
14 when a district is legally compact versus not
15 legally compact?

16 A. Not that I know of beyond the most
17 subjective assessment.

18 Q. Okay.

19 MR. FARR: Does anyone want to take
20 a break? Let's take a short break.

21 (SHORT BREAK 1:40 - 1:50 P. M.)

22 Q. (Mr. Farr) Professor, I'm going to ask
23 you some questions about your compactness
24 conclusions and -- and -- and so, you might
25 want to get your finger on page 4 and wherever

1 Table 1 is.

2 A. (Peruses document.) Okay.

3 Q. On page 4, you say that the Rucho-Lewis
4 reduced substantially the compactness of
5 Congressional Districts 1 and 12.

6 What I wanted to know is what -- how do
7 you define -- or what do you mean by "reduced
8 substantially"?

9 A. So, there's a -- a numerical reduction
10 in the Reock measure and the area to perimeter
11 measure. The area to perimeter measure is you
12 calculate the area of the -- of the district
13 and then calculate the perimeter of the total
14 miles around.

15 And then take the ratio of those two.
16 They're different scores. They measure
17 slightly different aspects of compactness of
18 the districts.

19 And what I mean is that there was a
20 substantial, noticeable, meaningful reduction
21 in compactness according to either one of those
22 measures.

23 Q. Okay. So, I -- I want to try to put
24 that in context. I'm looking at your Table 1.

25 A. Unh-hunh (yes).

1 Q. And you stated that the Reock score
2 under the 2001 plan for District 1 was .390?

3 A. Correct.

4 Q. And the Reock score under the 2011 plan
5 was .294?

6 A. Correct.

7 Q. So, if you subtract that, what's the
8 difference?

9 A. Point one, roughly. I mean, there's --
10 .096.

11 Q. It would be -- right, 096. And that's,
12 like -- what -- so, what would be an
13 insubstantial difference?

14 A. So, one way to think about Reock is it's
15 a ratio -- the ratio of -- if you had a
16 perfectly compacted district, and it was a
17 circle, it would be one.

18 Q. Unh-hunh (yes).

19 A. And so, if you had a square -- because
20 you can't fit circles all over the State, but
21 you might be able to fit squares -- it would be
22 about .65, roughly.

23 Q. Unh-hunh (yes).

24 A. And so, that might be a good starting
25 point to take. It's like, okay, that's, like

1 -- as compacted of districts as we see are
2 typically around .65 around maps in the United
3 States.

4 So, if you take .65 as the base line,
5 just sort of hypothetically, how much -- what
6 percentage reduction is that? That's a pretty
7 substantial reduction.

8 It's about a 12 percent reduction from
9 that right at .096 over .65 -- somewhere around
10 12 percent.

11 Q. Okay. What -- like, it is was a -- if
12 it was a .01 reduction, would that be
13 substantial?

14 A. Point 01?

15 Q. Unh-hunh (yes), .01.

16 A. I -- I don't -- I don't think so. But
17 it depends on what the base line is. As you
18 get down to the --

19 Q. What do you mean by base line?

20 A. What the -- when you get very -- when
21 you -- when you get down to highly non-compact
22 districts, beca- -- well, I should say the
23 limit.

24 As you -- as you get down to -- a
25 district that is a -- got a Reock score of .02,

1 a reduction to .01 would be a fif- -- 50
2 percent reduction in the compactness.

3 If you think about geometrically what must
4 happen to that district to go from .02, which
5 is already, like, extremely non-compact, to
6 .01, it's got to get stretched out a whole lot
7 more and bent around and contorted.

8 So, it depends a little bit on -- on the
9 ex- -- extreme values. At the extreme values,
10 it becomes harder and harder to -- now, the re-
11 -- the reductions -- percentage reductions are
12 -- are, kind of, more substantial.

13 Q. Like, what if you had a district that
14 had a .32 Reock score, and the new district was
15 .29. That would give you a difference of .03.

16 Would that be substantial?

17 A. Probably not.

18 Q. Okay. And then have you referred to any
19 scholarly literature on -- on compactness? Or
20 articles?

21 A. Not in this report, I didn't refer to
22 any of it. But there is scholarly literature
23 on it.

24 Q. Have you ever re- -- referred to scholarly
25 literature on compactness in your studies?

1 A. Yes.

2 Q. Do you remember any of the literature
3 that you referred to?

4 A. I really like Micah Altman's Ph.D.
5 dissertation and the articles that came out of
6 that.

7 Q. Are you familiar with an article by Niemi
8 and Plides?

9 A. Niemi and Plides, I've -- Reock's
10 original article is a -- that -- that original
11 article is one of the standard articles on how
12 do you do compactness, and how he derived that
13 specific measure.

14 Gudgeon and Taylor's book on political
15 geography -- there's a big literature -- I've
16 read a lot of -- is there something in
17 particular you're thinking of?

18 Q. No, I'm just trying to see which ones
19 you rely upon.

20 A. Oh, okay.

21 Q. And so, is Niemi and Plides -- is that
22 -- how would you rate that? Is that
23 authoritative on compactness or --?

24 A. It's -- it's quite good. I -- you know,
25 Reock's article is taken as one of the

1 authoritative pieces on compactness.

2 Q. Whose article?

3 A. Reock, the person who generated this
4 report, yeah.

5 Q. Okay. Okay. And -- but Niemi and
6 Plides, how would you rate that?

7 A. I think it's a good, you know, further
8 application and -- and examination of the
9 concept and its application in this domain.

10 Q. Okay. Did you know Dr. Hofeller, who's
11 our expert, was one of the authors of that
12 report?

13 A. I did know that.

14 Q. Okay. Okay. Now, your second
15 compactness test, which is ratio, area to
16 perimeter of district?

17 A. Unh-hunh (yes).

18 Q. Is that a -- a test that's referred to
19 in the literature? Or is that -- is that
20 something that you've come up with?

21 A. This is actually standard. It's in the
22 literature. Maptitude produces it as part of
23 its other -- other -- ArcGIS produces this.

24 Q. Okay. Does it have a name?

25 A. I'm not sure. I've -- I've seen it in

1 different reports and different studies with
2 different names. So, I don't know if there's a
3 standard name that's commonly used. And also
4 different literatures -- and so, we're dealing
5 literature on geography, literature on
6 political science.

7 And they use different names for the
8 different scores.

9 Q. Okay. And so, turning -- looking at the
10 Table 2, based upon your calculations --

11 A. Table -- Table 2?

12 Q. Excuse me, Table 1, my apologies. Is it
13 correct that the Rucho-Lewis 3 First District
14 has a more compact Reock score than the Twelfth
15 District under the 2001 Congressional Plan?

16 A. The Rucho-Lewis -- which one? The --
17 Rucho-Lewis --?

18 Q. Rucho-Lewis 1 has a -- has a -- has a
19 more compact Reock score than the Twelfth
20 District under the 2001 plan?

21 A. Correct.

22 Q. And the Rucho-Lewis District 1 has a more
23 compact score than District 13 under the 2001
24 plan?

25 A. Correct.

1 Q. And -- and that's also true for
2 Rucho-Lewis District 3 as compared to the 2001
3 Twelfth and Thirteenth Districts under your --

4 A. So --

5 Q. -- ratio of area to perimeter of district
6 test, right?

7 A. Oh, so, are we looking at ratio/perimeter
8 or Reock?

9 Q. Yes.

10 A. And it's 3 versus --?

11 Q. I'm comparing -- I'm comparing
12 Congressional District 1 under Rucho-Lewis --

13 A. Unh-hunh (yes).

14 Q. -- under the ratio of area to perimeter.
15 I'm comparing it first to District 12. And
16 would you -- District 12 under the 2001 plan.
17 Would you agree that the -- the 2011 version of
18 the First District is -- is more compact under
19 the ratio of area to perimeter test as compared
20 to the 2001 version of District 12?

21 A. Correct.

22 Q. And it's also more compact than the
23 District 13 under the 2001 Congressional Plan?

24 A. Correct.

25 Q. Okay. Do -- do you know -- now on Table

1 1 -- we've talked about the fact that the First
2 District under the 2001 plan has got this Reock
3 score .390 versus .294 under the Rucho-Lewis 3
4 plan.

5 Do you -- can you explain why that
6 difference arose?

7 A. The -- the district boundaries were
8 shifted; and shifted in such a way that the --
9 I think what happened -- if I'm recalling the
10 maps specifically, I think what happened is the
11 district extended westward.

12 Q. Unh-hunh (yes).

13 A. I -- I think that extension creates some
14 of the -- but I'd have to go back and look at
15 the exact map and overlay it with the circle to
16 see exactly where the inscribed circle is
17 pushed out.

18 Q. Okay. Are you aware of the fact that
19 the First District under the 2001 plan under
20 the 2010 census was underpopulated by 97,000
21 people?

22 A. That's correct.

23 Q. Okay. Could that explain why the
24 boundaries needed to change?

25 A. Yes, the boundaries would have to change.

1 to capture another 97,000 people.

2 Q. Okay. Have you prepared a map showing
3 how they could have changed the boundaries for
4 the First District and achieved a Reock score
5 that was closer to the 2001 First District?

6 A. No, I have not.

7 Q. Have you prepared a map to show how the
8 First District -- the 2011 First District would
9 have been drawn to achieve a more compact Reock
10 score while also achieving the political goals
11 of the General Assembly when they enacted the
12 2011 Congressional Plan?

13 A. No, I have not.

14 Q. Okay. And let's go to District 12 for a
15 second. So, I -- I can see that the 2001 plan
16 has a Reock score that is higher on the
17 compactness scale than the 2011 version.

18 Do you know why that happened?

19 A. Do you mean District 12?

20 Q. Yes, sir. Do you --

21 A. Do you mean lower on --

22 Q. Yes, sir, I meant lower.

23 A. Okay.

24 Q. The -- the new district is lower on the
25 Reock score. Do you know why that happened?

1 A. It looks like the district extended -- if
2 I recall the boundaries specifically, I think
3 the district extend--- extended northward
4 somewhat.

5 So, it's elong- -- elongating --

6 Q. Right.

7 A. -- further, so it's losing its -- it's
8 losing its area --

9 Q. Unh-hunh (yes).

10 A. -- as it stretches north. So, it's
11 losing its area. That's my recollection of the
12 geometry of the district.

13 Q. Exactly right. So, the longer the
14 district is, the lower the Reock score is going
15 to be?

16 A. Unh-hunh (yes).

17 Q. Is that -- you need to say yes or no.

18 A. Yes, that's right.

19 Q. Okay. Did you look at any of the
20 legislative testimony or evidence presented at
21 trial regarding why District 12 was elongated?

22 A. No, I did not.

23 Q. Okay. Have you prepared any maps
24 showing how the legislature could accomplish
25 its political goals for District 12 and the

1 2011 Congressional Plan by drawing a different
2 version of District 12 with a more -- with a
3 higher Reock score?

4 A. No, I have not.

5 Q. Okay. And, you know, the answers you
6 just gave about the Reock score as far as, you
7 know, under the area to perimeter test, have
8 you prepared any maps showing how the 2011
9 First District could have scored better under
10 the area to perimeter test while also achieving
11 the political goals of the General Assembly?

12 A. No, I have not.

13 Q. And have you drawn any maps showing how
14 District 12 could have been drawn in 2011 with
15 a -- a better score under the area to perimeter
16 test while also achieving the legitimate
17 political goals of the General Assembly?

18 A. No, I have not.

19 Q. Okay. Thanks. I'm going to skip your
20 testimony about the split counties, since that
21 -- I think that speaks for itself.

22 So, I just want to ask you a few more
23 questions about compactness, I guess. When you
24 say Congressional District 12 is highly
25 non-compact, what does that mean?

1 A. I'm sorry, what -- which paragraph are
2 we on?

3 Q. I'm sorry, yes, sir, I'm on paragraph 15.

4 A. (Reads paragraph 15) Which line -- so,
5 "CD 12 is highly non-compact"?

6 Q. It says -- yes, I just want to know what
7 you meant by that.

8 A. That -- that is based on my judgement
9 having looked at a lot of maps and looked at
10 various compactness scores across maps.

11 And also, there is a rule of thumb with
12 Reock scores that's emerged that Reock below .2
13 is viewed -- viewed as, sort of, having, kind
14 of, a fairly low compactness.

15 Q. And a- -- and above .2 is not -- is not
16 viewed as having low compactness?

17 A. Yes, not -- people don't, like, "Oh,
18 that's a really low -- that -- what's going on
19 there?" They don't think above .2 is -- that's
20 just a rule of thumb.

21 Q. Okay.

22 A. There's no -- as far as I know, there's
23 no statistical property associated with Reock
24 scores, yet, though, I think, some geographers
25 are trying to work on that issue using

1 simulations.

2 Q. Unh-hunh (yes).

3 A. Because you don't know what the sam- --
4 what the sample of possible districts would be.
5 And I know that John Rhoden and Joey Chan at
6 Stanford and Michigan have been working on a
7 simulation based method of trying to understand
8 compactness, but --.

9 Q. Okay. All right. Have you -- in your
10 studies and your work you've done, have you
11 seen any districts that have got lower, or
12 comparable Reock scores as the 2011 version of
13 the North Carolina Twelfth Congressional
14 District?

15 A. I -- CD 5 in Florida had -- is about the
16 same.

17 Q. Is that a majority black district that's
18 --

19 A. That's one of the disputed questions,
20 whether it is majority black.

21 Q. What's -- do you know what the racial
22 composition is of that district?

23 A. It is not majority -- well, the prior --
24 the -- the version -- I think it was called --
25 numbered CD 3 was not majority black.

1 And they altered the district to make it
2 majority black VAP, but it's not majority black
3 citizen VAP.

4 Q. Okay. Good -- well, that's -- that's
5 okay. Was that the district adopted by the
6 State of Florida for -- for Section 2 reasons
7 or Voting Rights Act reasons? Do you know?

8 A. That was -- I don't know what their
9 motivation was. It was adopted under this new
10 constitutional provision where they'd have to
11 get pre-clearance from the State Supreme Court
12 and so forth.

13 So, I -- that -- my --.

14 Q. Okay. You just don't know what their
15 motivation was?

16 A. To get it past the various screens that
17 they would have to pass at the state level and
18 possibly the federal level.

19 Q. Okay. All right. Okay, but it -- it's
20 a --

21 A. It's not a Section 5 covered county. It
22 doesn't -- I don't -- yeah, I don't think it
23 intersected with any of the Section 5 covered
24 districts -- counties in the state.

25 So, it was not a Section 5 question. It

1 was a -- it might have been a Section 2
2 question.

3 Q. Okay.

4 A. But then there's a Section 2 question,
5 which is whether or not -- if the district is
6 not majority black VAP, you have to create a
7 majority black VAP.

8 So, that's, I think, what the -- part of
9 the question is that they're grappling with
10 right now in the courts.

11 Q. Okay.

12 A. And the Florida Constitution has explicit
13 compactness criteria that they're trying to
14 figure out what the standard is, so --.

15 Q. Do you know the -- do you know anything
16 about the history of that district in Florida?

17 A. A little bit of it.

18 Q. Has it -- has it -- has it, kind of, had
19 the same configuration for more than one cycle?

20 A. It's -- it -- it moved. I'm trying to
21 remember where it moved, what -- what --
22 exactly what decade it moved in.

23 Q. And are you a witness in that case?

24 A. I am.

25 Q. Are you familiar with the parties in that

1 case?

2 A. A bit.

3 Q. Is the NAACP a party in that case?

4 A. They are. There's a set of Plaintiffs
5 called the Coalition Plaintiffs. And I think
6 the NAACP is part of the Coalition Plaintiffs.

7 Q. Do you know who their counsel are in
8 that case?

9 A. I don't remember the names. I think
10 they've been mentioned to me on the phone, but
11 I don't --.

12 Q. Does the Southern Coalition for Social
13 Justice ring a bell?

14 A. I've heard the name. I don't know if
15 they're involved in that.

16 Q. Okay. Are those Plaintiffs defending that
17 district?

18 A. I am not sure. I'm just -- deal with my
19 counsel and the questions that they raise with
20 me. I'm not --.

21 Q. Okay. You can't answer if you don't
22 know.

23 A. Yes.

24 Q. Okay. Now, let's turn to the racial
25 compositions of districts, which starts on page

1 8, paragraph 18. Okay.

2 When you say there were no majority black
3 districts under the 2001-2011 Map, you're
4 referring to what I call the 2001 Congressional
5 plan? Is that the same thing?

6 A. I believe that is.

7 Q. Okay. And what did you mean by no
8 majority black districts?

9 A. No majority black VAP districts. That
10 is, none of the districts had -- were districts
11 in which a majority of the voting age
12 population were black, according to census.

13 Q. Okay. But then you also say that the
14 First District was majority black as to
15 registered voters?

16 A. Correct.

17 Q. Okay. And did you look to see if the --
18 if either the First or the Twelfth District
19 were majority non-hispanic white districts?

20 A. Majority non-hispanic white districts?
21 I'm trying to remember if I did a -- I don't
22 remember looking at the -- but -- whether
23 either of them was a coalitional district.

24 Q. Okay. If they were -- if the -- if the
25 -- under the 2010 census, if the First -- if

1 the 2001 First and Twelfth Congressional
2 Districts were non-majority or non-hispanic
3 white minority districts --

4 A. Unh-hunh (yes).

5 Q. -- would that then potentially make them
6 into a coalition district similar to what you
7 talked about in Texas?

8 A. Potentially. There'd have to be a
9 separate analysis of the voting behavior of the
10 hispanics and the blacks in the area; whether
11 they vote together in the general elections
12 with sufficient cohesion, and the whites in
13 those areas vote together with sufficient
14 cohesion in opposition; and whether or not the
15 voting is -- behavior is sufficient that they
16 can elect their -- their candidates.

17 Q. Okay. Now, you then say there's two
18 majority black congressional districts in the
19 Rucho-Lewis 3 Congressional Map in paragraph 19.

20 A. Unh-hunh (yes).

21 Q. All right. And let's look at your table
22 2. Now, I want to -- when you say majority
23 black congressional districts, you're just
24 using that to describe the percentage of the
25 total black voting age population in the

1 district?

2 A. Correct.

3 Q. Okay. All right. Turning to your
4 section about race is a factor in the
5 composition of the districts, one of the tests
6 you -- you performed is -- is based upon what
7 you described as the envelope of the district?

8 A. Envelope of counties, yes.

9 Q. Okay. The envelope of the counties that
10 have a part of the district in -- in them?

11 A. Correct.

12 Q. Okay. Where did you get that concept?

13 A. That concept I've encountered from map
14 drawing in other contexts. The idea is -- and
15 -- and also through a traditional districting
16 principle of trying to respect county
17 boundaries.

18 So, if you imagine there being a set of
19 counties where there is a set of people with
20 particular characteristics, and you think that
21 that district ought to go in that county, then
22 the only question is, "Okay, how exactly
23 configured is the district within that envelope
24 defined by the county?"

25 So, if I'm not going to cross additional

1 county boundaries and so forth -- so the basic
2 principle of respect for county boundaries,
3 which is a fairly common redistricting
4 principle that goes back to the beginning of
5 districting in the United States, is one, sort
6 of, starting concept.

7 And one way of approaching a map is to
8 take all the counties and start to draw maps
9 with counties. This county plus this county
10 plus this county; keeping them -- them whole to
11 the extent possible, and then starting to split
12 them if you're overpopulated or grabbing parts
13 of counties if they're underpopulated.

14 So, it's just a -- a -- an approach to
15 districting that's following a traditional
16 Democratic -- a districting principle.

17 Q. But you've never actually drawn a
18 Congressional plan for a state government or a
19 party that submitted it to the legislature?

20 A. No.

21 Q. Okay. And this -- this envelope theory
22 that you are using, has it been recognized by
23 any courts in a case similar to this one?

24 A. Well, certainly, in respect for county
25 boundaries is -- is something that courts do

1 look at in thinking about districting;
2 certainly, your Florida example, it's a state
3 court but not federal court in that case.

4 Q. Right. I got that, but what -- what --

5 A. Keeping counties whole, and then
6 imagining where the districts are situated
7 within that. As soon as you think about
8 keeping counties whole, then you're talking
9 about the counties themselves being the
10 envelope and restrict- -- and restricting the
11 districting within that.

12 So, it is a principle that comes out of a
13 lineage. In terms of the specific approach to
14 how you define the sub-population that you'd
15 study in terms of assessing a particular
16 district, there are some analyses that look at
17 specific subsets of states where the counties
18 in that subset of states -- or -- or some parts
19 of the states are what are -- are used, such as
20 -- all of the -- you know, Harris County is --
21 is used, and then how are the districts
22 configured within that, or the area -- the
23 metropolitan area and how the districts are
24 configured within that.

25 In terms of assessing the likelihood that

1 a black voter ends up in a district, or a
2 Democratic voter ends up in a district, or a
3 Republican voter ends up in a district, and
4 looking at the envelope as the baseline, I have
5 not encountered that particular analysis.

6 Q. Okay. That was my question.

7 A. Okay. I didn't know which part of it
8 you meant, like --

9 Q. No, that was good.

10 A. -- state as the envelope or the --

11 Q. You're just -- you answered -- you
12 answered the question I wanted to ask.

13 So, using the envelope to predict or
14 assess the number of Republicans or blacks that
15 end up in or out of a district is not something
16 you encountered before this case?

17 A. Not -- yeah, not explicitly that, yeah.

18 Q. That's not something that a court has
19 recognized as a way to assess the evidence in a
20 racial gerrymandering case?

21 A. Not that I know of.

22 Q. All right. Now, do you have a opinion
23 on actual voting behavior by blacks in North
24 Carolina versus whites in North Carolina?

25 A. I have written on that question in a

1 pair of articles in the Harvard Law Review.

2 Q. Oh, good.

3 A. It's not specifically North Carolina, but
4 it is -- it's a -- every state in the United
5 States. And there's an assessment of voting
6 patterns at a statewide level.

7 It doesn't break it out into specific
8 sub-regions within the states, and sometimes
9 there are variations of it in sub-regions.

10 Q. Okay.

11 A. But the articles -- if you look at my CV
12 -- if you -- if you don't have a copy of my
13 CV, please email me, and I will send it through
14 --

15 Q. I'll ask Mr. Speas to send it to me.
16 That would be fine.

17 A. But the articles are Voting Rights in
18 the Eye of the Beholder -- is that right -- no,
19 no, I have three articles in the Review. So,
20 there's one that's an analysis of the 2008
21 election, and another is an analysis of 2012.
22 So, the 2012 analysis was in 2013.

23 So, if you get on the Harvard Law Review
24 website, you'll -- and I think it's April, 2013
25 -- you'll -- or May issue, it'll be an article

1 by me, me, Nate Pursely and Charles Stewart.

2 And then the other article is from 2010.

3 And I think it's the April issue.

4 Q. Okay. Well, here's what I was going to
5 ask you. There's been some other expert --
6 there was some expert testimony in the -- in
7 the Dixon case that as much as 95 percent or
8 higher of -- of black voters who vote tend to
9 vote for the Democratic candidate?

10 Is -- would you agree with that or
11 disagree with that?

12 A. I -- I'd have to go back and look at the
13 numbers, but that could be.

14 Q. Did you study that in -- in terms of
15 whether that was true or not in North Carolina
16 when you prepared your report?

17 A. Not in terms of preparing this report.
18 I didn't do a racial polarization or cohesion
19 analysis for this report.

20 Q. Well, I -- I wasn't -- I'm not sure --
21 okay. You didn't do a racial polarization
22 analysis. I was asking more of a political
23 question.

24 Regardless of the race of the candidate,
25 there has been testimony that blacks, whether

1 they're Democrats, unaffiliated or Republicans,
2 are likely to vote for the Democratic candidate.

3 And the percentage is in excess of 90
4 percent. Have you ever evaluated or studied
5 that?

6 A. I have evaluated and studied it in an
7 academic context. I haven't done it in the
8 context of this case. So, I haven't focused on
9 it for that.

10 And the estimates that we derived are in
11 those articles for North Carolina.

12 Q. Okay.

13 A. For the elections we looked at, and they
14 were explicitly about the Obama elections.

15 Q. Right. Did you -- did you ever -- do
16 you have an opinion on whether there is a
17 strong correlation between race and the -- in
18 fact, the race of black people and how many
19 black people vote for Democratic candidates in
20 North Carolina?

21 A. My expectation -- and you know, based
22 loosely on my memory of that article and on
23 North Carolina voting statistics from CBS,
24 which I've gotten North Carolina as a race to
25 call, is that it's fairly high.

1 I wouldn't be surprised if it was
2 somewhere 90 percent plus. That tends to be
3 the average nationwide for blacks.

4 They tend to vote for Democratic
5 presidential and statewide candidates at very
6 high rates.

7 Q. And that would include registered black
8 Democrats, registered black unaffiliated and
9 registered black Republicans, would it not?

10 A. I don't know about the sub-groups of
11 registration.

12 Q. Okay.

13 A. We usually just look at blacks as a
14 category and the correlation of black VAP.

15 Q. Okay. And white voters are -- are much
16 more split in their political affiliations when
17 they vote as compared to black voters, is that
18 correct?

19 A. That tends to be the case, though,
20 there's -- are you referring to North Carolina?

21 Q. Yes.

22 A. Yeah, my recollection is they tend to be
23 more split.

24 Q. Okay. Are -- and that would in- -- and
25 that would include white Democrats are more

1 likely to vote for a Republican candidate than
2 a black Democrat? Would you agree with that?

3 A. That, I don't know offhand. So, you're
4 -- you're -- my guess is that would be likely
5 the case. But it's -- like, I haven't focused
6 on that analysis.

7 Q. You haven't worked with that?

8 A. Right. The ideal data to look at for
9 that would be to take, maybe, the National Exit
10 Poll for North Carolina, because they have a
11 pretty good sample of people as they're leaving
12 the exit polls.

13 Q. Okay. And would you agree the
14 unaffiliated white voters are far more likely
15 to vote for Republican candidates than
16 unaffiliated black voters in North Carolina?

17 A. That would be my -- my guess. But it's
18 not -- I don't -- I didn't study that
19 explicitly. I don't have any estimates offhand
20 to draw on.

21 Q. Okay. So, given that testimony, I want
22 you to explain to me your last sentence in
23 paragraph 20, where you say "If the lines were
24 drawn without regard to race, one would expect
25 that the white and black registered voters

1 would have approximately the same likelihood of
2 inclusion in a given Congressional District."

3 A. Unh-hunh (yes).

4 Q. And explain that to me. I don't
5 understand that at all.

6 A. Oh, so, if you -- if you -- as a -- as an
7 expectation, if you drew the lines without
8 regard to race -- just arbitrarily, perhaps --
9 so, if you were doing this exercise that my
10 colleagues John Rhoden and Joey do, where they
11 randomly construct a district in some part of
12 the State, what would be the resulting
13 correlation between the probability that a
14 white ends up in a district and the probability
15 a white -- a black ends up in a district, you
16 know, it would probably be uncorrelated.

17 That's what the expectation is.

18 Q. Okay. What if the -- what if the
19 individuals drawing the district were trying to
20 draw District 12 as an extremely strong
21 Democratic district, and the adjoining
22 districts as strong Republican districts, would
23 you still say that one would expect that white
24 and black voters should be included in District
25 12 at the same percentages?

1 A. So, if you gave me that as the
2 conjecture, then I would have to, sort of,
3 somehow condition on party. Let's say, given
4 the party, what's the probability.

5 So, it's, like, a second analysis is
6 introduced into the report.

7 Q. So, you --

8 A. And that -- if it's race versus party --

9 Q. Unh-hunh (yes).

10 A. -- or if party is somehow a factor, then
11 you need to do an additional analysis. That's
12 why I did the additional analysis.

13 But if it was just a question of race or
14 not race, without any -- without anything else
15 under consideration, then that's what that
16 sentence refers to.

17 Q. All right. But does party necessarily
18 indicate the percentage of white Democrats who
19 vote for a Republican candidate?

20 A. My experience looking at exit polls and
21 working for CBS is that white democrats tend to
22 vote about 80 percent with their party; maybe a
23 little higher -- 85 percent.

24 Q. In what states?

25 A. It's a general pattern around the United

1 States.

2 Q. Have you studied that for North Carolina?

3 A. Not explicitly. But when -- I'm trying
4 to remember what -- I -- I had the North
5 Carolina -- I had the North Carolina Senate
6 race the last time around.

7 I'm trying to remember what the numbers
8 were. They gave us a briefing book. I don't
9 remember what the exact numbers, but you know,
10 the white Democrats will vote overwhelmingly
11 Democratic.

12 Q. But they're -- they're voting at a
13 percentage that's lower than what the -- the
14 black Democrats are voting for the Democratic
15 candidate?

16 A. Correct. And white Republicans vote for
17 Republicans at a lower rate than black
18 Democrats vote for Democrats.

19 So, in terms of the swapping, it's -- my
20 -- my guess, based on this, is white
21 Republicans look like the opposite of white
22 Democrats in terms of their percentage, voting
23 for their -- for their party's preferred
24 candidates.

25 Q. And are un- -- unaffiliated white voters

1 likely to vote for a Republican candidate at a
2 higher rate than registered black Democrats?

3 A. Yeah, that -- that'd be my estimate, yeah.
4 Unaffiliated generally tend to split their
5 votes pretty evenly, so that -- that would be
6 -- that would necessarily follow.

7 Q. Right. Well, what about un- -- would
8 unaffiliated white voters tend to vote for
9 Republicans at a higher rate than unaffiliated
10 black voters?

11 A. I don't know that one offhand, so --.

12 Q. You haven't looked at that?

13 A. I don't remember looking at that one in
14 particular, but --.

15 Q. And you've not looked at that for North
16 Carolina?

17 A. Right. That's a -- that particular
18 group is sufficiently small. It usually
19 doesn't show up in the exit polls.

20 Q. Do you know what the percentage of
21 unaffiliated voters is in North Carolina?

22 A. I don't remember offhand.

23 Q. Do you know what percentage of registered
24 black voters are registered as Democrats?

25 A. I recall it was very high, like, 85

1 percent of so. I don't remember the exact
2 number, but I remember it being very high.

3 Q. In North Carolina?

4 A. In North Carolina.

5 Q. Do you recall what -- what percentage
6 black voters make up of registered Democrats in
7 North Carolina?

8 A. So, what percentage of all Democrats are
9 black voters? I don't remember that number
10 offhand.

11 Q. Okay. Let me ask you, so, if -- if the
12 -- if the lines of the district were drawn to
13 try to increase Democratic performance in one
14 -- in District 12 --

15 A. Unh-hunh (yes).

16 Q. -- and increase Republican performance in
17 the adjoining districts, would you expect that
18 the percentage of whites and blacks moved in
19 and out of the Twelfth District would be the
20 same?

21 Or would -- would the percentage of
22 blacks moved in be higher?

23 A. It depends on what the adjoining
24 populations are and what the populations in the
25 district are. Because if you remove

1 population, you could affect it as well as
2 adding to it, so --

3 Q. Well, let's --

4 A. -- it just depends on what the
5 population is.

6 Q. Let's talk about North Carolina, okay,
7 and District 12.

8 A. Right.

9 Q. You've got three major population centers
10 for District 12, right?

11 A. Unh-hunh (yes).

12 Q. And then you've got this connecting area?

13 A. Correct.

14 Q. Okay. The -- the -- the -- in
15 Mecklenburg County and Guilford County and
16 Forsyth County, is it fair to say that a high
17 percentage of the registered Democrats in those
18 counties are African-American?

19 A. That's -- that's fair to say. I don't
20 know what percentage it is, but it's -- I
21 remember it being high.

22 Q. Okay. And if you were going to increase
23 the Democratic performance of that district in
24 those counties, would it be likely that you
25 would be adding African-American voters to

1 those districts if you were going to increase
2 the percen- -- or the performance of the
3 Democratic candidate in those districts?

4 A. Well, that would be one strategy. You
5 could add white Democrats, and it would
6 increase it, because white Democrats are voting
7 for Democrats at higher than 50 percent. You
8 could --.

9 Q. Yes, but they vote -- they vote for --
10 the white Democrats and -- and the unaffiliated
11 whites for the Democratic candidate at a lower
12 percentage than the black Democrats?

13 A. That would be conjectured and then --
14 you know, my guess -- I don't know -- I don't
15 know if it's -- how much lower it is.

16 And if you're -- if you're taking, say,
17 white Republicans out of the district and
18 putting white Democrats in, that's a net swing,
19 say, of -- from 20 percent Democratic to 80
20 percent Democratic of those voters.

21 That's a pretty big net swing if you take
22 a white Republican out and put a white Democrat
23 in. I guess, the marginal improvement would be
24 another -- under this hypothetical, another 15
25 points if you put a black Democrat in.

1 Q. Okay. What is the -- do you know what
2 the Supreme Court of The United States says
3 about whether election results or registration
4 statistics are a better predictor of actual
5 voting conduct?

6 A. My recollection from -- this is what come
7 up in Cromartie --

8 Q. Unh-hunh (yes).

9 A. -- is that they said that election in
10 Briar's opinion -- is that right -- was a --
11 I'm trying to remember. I'm not sure I've got
12 the right opinion in mind, but that election
13 results are better predictors or preferred
14 predictors.

15 My experience analyzing data is that the
16 two are highly correlated.

17 Q. So, you disagree with the United States
18 Supreme Court?

19 MR. SPEAS: Objection to form.

20 A. I'm not disagreeing with them. I'm not
21 disagreeing with them. I'm just saying that
22 the two are highly correlated. So, it could be
23 that -- my practical experience predicting
24 elections is that registration statistics are
25 very useful in predicting elections.

1 Party -- party registration is a very good
2 predictor of party vote.

3 Q. (Mr. Farr) But your experience in doing
4 that has been in working for CBS?

5 A. And -- and also doing academic research.

6 Q. Okay. But you didn't -- you've never
7 been asked to -- to draw a redistricting map
8 for a jurisdiction, so that the party that
9 hired you would end up with a more favorable
10 redistricting plan than the one that was in
11 place in the previous decade?

12 A. No.

13 Q. Okay. If the -- if the -- the drawers
14 of the -- of the First District or the Twelfth
15 District were focused on election results and
16 trying to draw a stronger Twelfth District,
17 with your knowledge of where the Twelfth
18 District is located, in your opinion, would
19 that result in the Twelfth District having a
20 higher black percentage in the 2011 than what
21 it had under the 2001 plan?

22 A. It -- it might; it might not. It
23 depends on how much population needed to be
24 shifted. My recollection of the statistics was
25 that District 12 was overpopulated by 2400

1 people.

2 So, to make that a legal map, if you
3 started with that district as your first
4 district to draw, to make that legal -- if you
5 were doing the least thing possible, you'd
6 remove 2400 people.

7 And that would have been the extent of
8 the change. So, they -- just conceptually,
9 just looking at the map, from what -- based on
10 what I -- I know, that's one thing I -- you
11 know, that could have been done.

12 However, the map drawer shifted in -- I
13 don't remember the exact numbers, but it was
14 somewhere around 75,000 people -- shifted out
15 another big chunk of people -- 70 -- 77,000.
16 So, there -- there were a lot of population
17 shifts that happened between the two.

18 If you started with, kind of, the
19 minimalist approach of just make this an equal
20 population district, and they could zero it out
21 to comply with Baker v. Kerr or with some later
22 cases, like, stop there, or at least that would
23 be my experience.

24 Q. Okay. Is the -- in your opinion, is the
25 2011 Twelfth District a stronger performing

1 Democratic district than the 2001 version?

2 A. I think under either map, the Democrat is
3 almost surely going to win those districts.

4 Q. Is it -- which one is he going to win by
5 a higher percentage?

6 A. My guess is there's a small -- there
7 would be a percentage gain. In terms of data
8 analysis at CBS, when we forecast the House,
9 we're not going to worry about either one of
10 those districts.

11 Those are safe, safe Democratic districts.

12 Q. Right. But -- but -- but is the -- is
13 the 2011 version of the Twelfth likely to get a
14 higher Democratic vote total for President and
15 Congress and other Democratic races than its
16 2001 district?

17 A. It -- it's likely.

18 Q. Okay. What about the surrounding
19 districts? Have you studied those to see if
20 those districts are better performing districts
21 for Republicans as a result of the way the --
22 the Twelfth District was constructed?

23 A. I have not studied the party performance
24 of those districts.

25 Q. Have you studied the party performance of

1 any of the other districts in the 2001
2 Congressional Plan other than the First and the
3 Twelfth?

4 A. Just the First and the Twelfth. I mean,
5 I have -- I have to start studying them for CBS
6 now. So -- summer is upon me, and the election
7 is coming, so --.

8 Q. Turn to paragraph 38 of your report.
9 And you say that "The VTDs moved into
10 Congressional District 12 are 44.0 percent
11 black registration." I'm going to start over
12 again with 38.

13 I'll just read the whole paragraph.

14 A. Okay.

15 Q. "The VTDs kept in Congressional District
16 12 (the Core) --" and that raises an issue to
17 me, because I -- I want you to define to me
18 that that means, the Core.

19 "The VTDs kept in Congressional District
20 12 are 54.0 percent black registration and 31.9
21 percent white registration. The VTDs moved out
22 of Congressional District 12 are 23.2 percent
23 black registration and 66.0 percent white
24 registration.

25 "The VTDs moved into Congressional

1 District 12 are 44.0 percent black registration
2 and 37.1 white registration." Okay. Are you
3 with me?

4 A. Unh-hunh (yes).

5 Q. Then you say -- what -- what conclusion
6 do you reach from that? Is that -- what is
7 that -- what's the significance of that?

8 A. So, the net effect is moving VTDs --
9 keeping a district -- keeping -- the part of
10 the district that was kept in the district
11 without being moved in or out, that -- that --
12 that's the Core -- is 54 percent black
13 registration.

14 So, it's majority black registration.
15 That's the part that was left.

16 Q. Unh-hunh (yes).

17 A. And then the net change was to move out
18 VTDs that were 64 percent white registration
19 and 23 percent black registration total; and
20 then to move in VTDs that are 44 percent black
21 registration and 37 percent white registration.

22 So, the net swing is to move -- you're
23 moving out VTDs that are disproportionately
24 white; you're moving in VTDs that are somewhat
25 more black.

1 So, the net swing in black registration is
2 23.2 versus 44.0.

3 Q. Okay. And I -- and I don't know if
4 you've got this in the back or not. But do --
5 do you actually have totals of population that
6 was moved out and in in one of your tables?

7 Or did you just do percentages?

8 A. That's a good question whether I put the
9 -- I did calculate that at one point. And I
10 was trying to keep the -- I think (peruses
11 document). I mean, I don't -- I don't see
12 population.

13 Q. Okay. Do -- do you know where the --
14 the -- the moved VTDs are located in the
15 district, the ones who were moved out and moved
16 in?

17 Did you make a study of that?

18 A. I studied it in the map. So, I -- I
19 looked at the boundaries of the map to see
20 which areas were being moved, which -- whether
21 there were any county splits that were
22 introduced, whether there were municipal splits
23 and things like that.

24 Q. Okay. And you're familiar with District
25 12. And you've got these urban centers in

1 Mecklenburg and Guilford County, and then
2 you've got the corridors that connect them?

3 A. Right.

4 Q. Do you consider the part of the corridor
5 that was re- -- retained a part of the core of
6 the district? Is that how you defined Core?

7 A. Core is the part that's left in, kept in.

8 Q. Okay.

9 A. That's literally what the Core is.

10 Q. Okay.

11 A. It's not a -- it's not a, kind of,
12 judgmental term.

13 Q. Okay. Now, looking at paragraph 38,
14 "The VTDs that moved out were 23 percent black
15 registration and 64 percent white registration.

16 "The ones that were moved in were 44
17 percent black registration and 37.1 white
18 registration." Did you do any political
19 analysis of the election results in the VTDs
20 that were moved out versus the ones that were
21 moved in?

22 A. No, I didn't, just -- I -- I studied the
23 registration. I think I looked at the -- we
24 had -- the report I had had election results,
25 but I didn't -- of the VTDs, but I didn't know,

1 like, which voters vote for -- I just knew vote
2 share for, say, Obama.

3 But I didn't know if it was the black
4 vote, the -- you know, what percentage of that
5 was the blacks voting which way, or the
6 Democrats.

7 So, I stuck with the individual level
8 analysis to avoid, kind of, the inferential
9 problem of predicting, you know, what
10 percentage of the vote for those was coming
11 from blacks and whites.

12 Q. Okay. So -- well, do you -- well, do
13 you have an opinion on -- if we just looked at
14 the VTDs that were moved out of Congressional
15 District 12 versus the ones that were moved in,
16 would you -- would you have an opinion on
17 whether the ones that mo- -- were moved out had
18 a higher percentage of vote for McCain than the
19 districts that were moved in to District 12?

20 A. No, not -- not offhand, no.

21 Q. You didn't look at that?

22 A. I think I did look at it, but it's not
23 in the reports.

24 Q. Okay.

25 A. It's not something I would -- I would

1 testify on.

2 Q. Well, looking at the -- at the
3 registration figures where the -- the districts
4 moved out were 23.2 percent black and 64.0
5 percent white, and then you compare that to the
6 44 percent black that were moved in and -- with
7 37.1 percent white, based upon your knowledge
8 of voting patterns by blacks versus whites,
9 wouldn't it be reasonable to assume that McCain
10 performed better in the districts that were
11 moved out than he did in the ones that were
12 moved in?

13 A. That would be my prediction.

14 Q. Okay. And wouldn't it be reasonable to
15 assume that other Republican candidates
16 performed better in the districts that were
17 moved out than the ones that were moved in?

18 A. That would be my prediction, too.

19 Q. Okay. And that same answer would apply
20 if we looked at this from a voting age
21 population perspective?

22 A. Yes. It gets a little complicated,
23 because one of the other groups is not
24 mentioned in here. Hispanics, we don't know
25 what the registration rate of those is and so

1 forth, but --.

2 Q. Okay.

3 A. And again, you have to make some
4 projections. And there are some classic
5 problems with making projections where in some
6 counties the whites who are closest to the
7 blacks are the -- you know, voting --
8 residentially are the ones who are voting the
9 most strongly opposite to the blacks.

10 But then the whites that are farther away
11 are not. That's a classic article from Jerry
12 Wright in the 1970s. So, it depends on -- I
13 guess it depends on which whites.

14 Q. Okay. Oh, I'll add something I forgot
15 to ask you. Do you know what is meant by point
16 contiguity?

17 A. Yes.

18 Q. What does that mean?

19 A. So, if you have a -- if you have a VTD
20 here and a VTD here, and they just touch at one
21 point, you've got point contiguity.

22 Q. Okay. Do you know what's meant by the
23 term -- it's been called various things down
24 here, but one of the terms it's been called is
25 double point contiguity.

1 Have you ever heard of that before?

2 A. I haven't heard of double point
3 contiguity.

4 Q. Okay. Or criss-cross contiguity? Have
5 you ever heard of that?

6 A. I -- I've heard of criss-cross
7 contiguity, but -- like, I don't --

8 Q. What -- what is that?

9 A. -- fully -- I don't fully understand that.

10 Q. What's criss-cross contiguity as far as
11 you know?

12 A. So, I've -- the one reference I saw that
13 comes to mind was where you've got two -- two
14 -- two -- let me get an example.

15 So -- so, the point would be just like
16 any -- any -- any corner touching at least two
17 VTDs. The criss-cross would be a -- my
18 understanding, it was a form of point
19 contiguity.

20 But it's, like -- it has to do with the
21 -- the shape of the boundary that's connecting.

22 Q. If a -- if a jurisdiction used point
23 contiguity, could that affect the compactness
24 scores on a Reock test?

25 A. It depends -- depends on the shape. So,

1 if the district actually bent around -- back
2 around itself --

3 Q. Unh-hunh (yes).

4 A. -- then the inscribed circle -- the
5 inscribed circle wouldn't capture the bending
6 back. So, that wouldn't necessarily affect it.

7 The area to perimeter ratio would reflect
8 that.

9 Q. Okay.

10 A. That's one -- one of the examples of why
11 you'd want to look at both as, kind of,
12 indicators of what's going on with the district
13 shapes.

14 Q. Okay. But it's pos- -- is it possible
15 that the use of point contiguity could have an
16 impact on a Reock test?

17 A. It's possible if I took a district here,
18 and I stuck another district on top with just a
19 point connecting them, then by virtue of
20 elongating the district and reducing the total
21 area covered, that -- that would be an example
22 where it could, but --.

23 Q. Okay. All right. I've skipped a
24 paragraph I want to ask you about, paragraph
25 29. This -- this -- we're talking about the

1 same question I just asked you about
2 Congressional 12.

3 I want to ask you about Congressional
4 District 1. You can see in your -- in
5 paragraph 29 you say that "The VTDS moved out
6 of Congressional District 1 are 27.4 percent
7 black registration and 66.7 percent white
8 registration." Do you see that?

9 A. Correct.

10 Q. "The VTDS moved into Congressional
11 District 1 are 48.1 percent black registration
12 and 37.7 percent white registration"?

13 A. Correct.

14 Q. Okay. Would it be fair to assume that
15 the VTDS moved out of Congressional District 1
16 when the 2011 version was created performed
17 better for McCain than the VTDS that were moved
18 into the district?

19 A. That -- that would be my guess just
20 blindly on the basis of these statistics and
21 the correlation between race and -- and party.

22 But again, it depends on which whites, so
23 --.

24 Q. Okay. Would -- would -- would it be
25 fair to assume that other Republican candidates

1 performed better in the VTDs that were moved
2 out of Congressional District 1 as compared to
3 the VTDs that were moved into Congressional
4 District 1?

5 A. That -- again, that would be my
6 prediction. But again, it depends on which
7 whites and hispanics and other -- others.

8 Q. Okay. Would you be able to determine
9 that by looking at election results?

10 A. Election results, registration -- those
11 are the data that would be helpful.

12 Q. But you agree election results would be
13 helpful?

14 A. Yes.

15 MR. FARR: Can I take a short break?

16 (SHORT BREAK 2:50 - 2:59 P. M.)

17 Q. (Mr. Farr) Okay. Professor, I wanted
18 to ask you about your second report. And --

19 A. Before I move on to my second report,
20 can I make one change in my --

21 Q. Sure, you're always able to do that.

22 A. So, Dr. Hofeller pointed out something to
23 correct -- there is an error I made in
24 tabulation on paragraph 18. It should be 19
25 counties; not 18.

1 And it should be "splits nine of the ten
2 counties." I just miscounted. I was counting
3 by hand from the Excel spreadsheet. And I just
4 --.

5 Q. We'll give you that one.

6 A. Okay.

7 Q. No problem.

8 A. Time for new reading glasses, I guess.

9 Q. I just want to ask you -- I hope I can
10 get -- I'm not going to go all through your
11 second report. It's -- it speaks for itself.

12 But I -- you made some effort in this --
13 in the second report to try to --

14 MR. SPEAS: This is Exhibit 10?

15 MR. FARR: I'm sorry, yes, Eddie,
16 thank you, Exhibit 10.

17 Q. (Mr. Farr) Did -- you made an effort to
18 try to predict election results in your -- in
19 Exhibit 10, is that right?

20 A. Well, there's a correlation between the
21 election data, the voting -- at the voting
22 tabulation district and the registration data.

23 Q. Explain that to me.

24 A. It's not an attempt to actually predict
25 the election results. The question is whether

1 or not registration and -- and voting are
2 highly related to each other; and therefore,
3 whether registration is a good indicator of
4 likely performance of the -- of the district,
5 or whether or not -- you know, if you analyzed
6 registration, you'd get essentially the same
7 conclusions or close to the same conclusions as
8 analyzing elections.

9 Q. Did that assessment that you did include
10 an assessment of accounting for unaffiliated
11 voters?

12 A. Unaffiliated voters are included in that
13 measure of registration.

14 Q. Okay. Again, how did you predict how the
15 unaffiliated voters were going to vote?

16 A. It's not a prediction about how the
17 unaffiliated voters are going to vote. It's
18 just a correlation between the percent vote --
19 of the two-party vote and the correlation and
20 -- and the percent of the registration that's
21 Democrat or Republican or unaffiliated.

22 So, the higher the Democratic percent,
23 the -- in registration, the higher the
24 Democratic percent in vote. And that degree of
25 correlation is quite high -- around .8 or

1 higher was my recollection of the numbers.

2 Q. Could you point that part of your report
3 out to me? Because this -- this is something
4 that I really didn't understand, which is why
5 I'm asking you questions about it.

6 A. Okay.

7 Q. Where is this in your report?

8 A. Table -- page 5.

9 Q. Okay.

10 A. Paragraph 16, 17, 19.

11 Q. Okay. So, I'm looking at 17. And you
12 said --

13 A. I --

14 Q. I'm sorry?

15 A. Sorry, go ahead.

16 Q. Anything else?

17 A. No, no.

18 Q. I didn't mean to interrupt you. It's --
19 so, and you said Table 5?

20 A. I didn't say a table, but yeah, I think
21 that's the right one -- Table 2? No, Table 1.

22 Q. Okay. So, you -- you correlated
23 Democratic registration -- black Democratic
24 registration and VAP against the Obama vote?
25 Is that what you did?

1 A. Right. When I said .8, I was
2 remembering the black and white registration;
3 not the -- so, I correlated black registration
4 versus the Obama vote and white registration
5 other than party registration.

6 So, I just forgot which number I was
7 looking at.

8 Q. Okay. And then did you do the same
9 thing for black VAP and white VAP in the Obama
10 vote?

11 A. Yes.

12 Q. Okay. Did you look at any other races
13 besides the Obama race?

14 A. In this -- in this report, I only looked
15 at the Obama 2008 vote.

16 Q. Okay. Is there a correlation between
17 black registration and voting for Democratic
18 candidates, do you think?

19 A. Yes.

20 Q. Do you think it would be in the same
21 range as -- as the Obama correlation?

22 A. Yes.

23 Q. And what about -- is there a correlation
24 between black VAP and votes for other Democrats?

25 A. Yes, my guess is it's quite high.

1 Q. And would it be in the same -- close to
2 the same number as -- as for the Obama
3 correlation?

4 A. Correct.

5 Q. Okay. So, your -- your study shows that
6 when you take all three of those things into
7 consideration, that blacks are very likely to
8 vote for the Democratic candidate?

9 A. Correct, and -- and particularly for
10 Obama. I was looking at the Obama '08 vote.

11 Q. Right. And that includes registered black
12 Democrats and unaffiliated blacks, right?

13 A. Correct.

14 Q. And with the VAP would also include some
15 degree -- to some degree, Republican blacks?

16 A. Correct.

17 Q. Okay. And then I wanted to ask you,
18 have you -- I know you've looked at Dr.
19 Hofeller's report?

20 A. Yes.

21 Q. Is there anything that he added
22 incorrectly or any data that -- that he didn't
23 quote accurately? I'm not asking you to agree
24 with his conclusions, but did you find any
25 errors? Mathematical errors or things he

1 reported that were not correct?

2 A. I found no mathematical errors or in- --
3 incorrect reports.

4 Q. Okay. Let me look real quickly here.

5 MR. FARR: I think I'm done. Thank
6 you, sir.

7 A. Thank you.

8 MR. SPEAS: Can we have just a
9 minute?

10 MR. FARR: Sure.

11 (SHORT BREAK 2:50 - 3:01 P. M.)

12 MR. SPEAS: We have no questions.

13 (WITNESS EXCUSED.)

14 (FURTHER DEPONENT SAITH NOT AT 3:01 P. M.)